

IN THE UNITED STATES DISTRICT COURT FOR THE
DISTRICT OF NEBRASKA

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	8:09CR129
)	
v.)	
)	
BRYAN S. BEHRENS,)	ORDER
)	
Defendant.)	
_____)	

This matter is before the Court on defendant Bryan Behrens' motion for reconsideration or in the alternative a notice of appeal of this Court's order denying defendant's motion for relief under 28 U.S.C § 2255 (Filing Nos. [218](#) and [219](#)). Defendant was given permission to proceed in forma pauperis in the underlying matter and the Court sees no reason why he should not proceed in forma pauperis on appeal.

Further, in accordance with 28 U.S.C. § 2253(c) and Federal Rule of Appellate Procedure 24(b), the Court must consider a certificate of appealability. Defendant argues that his due process rights were violated by the prosecution of the criminal case against him despite a stay issued by a separate court overseeing an associated civil proceeding. Therefore, the Court finds that defendant should be allowed to proceed with his appeal. Accordingly,

IT IS ORDERED:

- 1) Defendant's motion for reconsideration is denied;
- 2) Defendant may proceed on appeal in forma pauperis without prepayment of costs;
- 3) A certificate of appealability is granted.

DATED this 17th day of December, 2013.

BY THE COURT:

/s/ Lyle E. Strom

LYLE E. STROM, Senior Judge
United States District Court